



HF 2438 – Enticement of a Minor (LSB 1327HZ)

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Fiscal Note Version – New

Requested by Representative Kurt Swaim

Description

House File 2438 eliminates the aggravated misdemeanor crime of attempting to entice a minor, and elevates the crime of attempting to entice a minor to the level of enticing a minor. The Bill requires the offender to commit an overt act evidencing a purpose to entice in order to be convicted.

Background

Correctional and Fiscal Information

- Current law provides a graduated system of penalties for enticing a minor, ranging from an aggravated misdemeanor to a Class C felony. There were no Class C felony convictions for this offense in FY 2008 or FY 2009. Class C felonies tend to be prosecuted at the federal level. This Bill eliminates the aggravated misdemeanor penalty. Therefore, what are now aggravated misdemeanor convictions will become Class D felony convictions under House File 2438.
- There were four Class D and 14 aggravated misdemeanor convictions for enticing a minor in FY 2008. There were four Class D and 22 aggravated misdemeanor convictions for enticing a minor in FY 2009.
- Enhancing penalties increases the average length of stay in prison and the incarceration rate (number of offenders sentenced to prison). The average length of stay in prison is 10.6 months for an aggravated misdemeanor sex offense, and 34.1 months for a Class D felony sex offense.
- The incarceration rate to prison is 18.0% for an aggravated misdemeanor offender and 25.0% for a Class D felony offender.
- The average cost per misdemeanor case for the court system is \$200 for a bench trial and \$1,000 for a jury trial. The average cost per felony case for the court system is \$405 for a bench trial and \$2,000 for a jury trial.
- The average cost per case for indigent defense is \$1,200 for either an aggravated misdemeanor or a Class D felony.
- The average daily cost for probation is \$3.64. The average length of stay on probation is 18.3 months for an aggravated misdemeanor and 31.6 months for a Class D felony.
- The marginal cost (support budget only) for the State prison system is \$18.29 per day.
- These offenders may be required to comply with the terms of the Sex Offender Registry, and are placed in sex offender treatment, intensive supervision, and electronic monitoring while on probation.
- The cost per Global Positioning System bracelet is \$7 per day. The current practice of the Department of Corrections is to electronically monitor sex offenders using the GPS bracelet while they are under any type of supervision in the community, based on a risk assessment.

Minority Data Information

- The U.S. Census estimate for Iowa was 3.0 million people as of July 1, 2008 (the most current estimate available). Men comprise 49.3% of the population. Approximately 92.0% of Iowa's population is white. The composition of the remaining 8.0% is: 3.2% black, 0.3% American Indian or Alaska Native; 1.7% Asian; and 2.8% is of two or more races or unknown.
- Iowa's prison population was 8,454 offenders on June 30, 2009. Men comprised 92.1% of the population. According to the Criminal and Juvenile Justice Planning Division (CJJPD) of the Department of Human Rights, the racial composition of the prison system was: 71.4% white; 25.8% black; 0.9% Asian or Pacific Islander; and 1.9% American Indian or Alaska Native. Included in these racial groups were 6.7% that identified themselves as Hispanic (nearly all of these identified themselves racially as being white).
- The majority of sex offenders admitted to DOC custody or supervision are white non-Hispanic males.

Assumptions

Correctional and Fiscal Information

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- The criminal sentencing enhancement takes effect July 1, 2009. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
- There is no increase for indigent defense.
- These cases will be bench trials.

Minority Data Information: Approximately 14.0% of Iowa's population has at least one disability. The number of offenders convicted under this Bill with a disability may be 14.0%.

Summary of Impacts

Correctional Impact: There will be an estimated 22 offenders annually convicted of a Class D felony under the Bill that are convicted of an aggravated misdemeanor under current law. Eleven of these offenders will be sentenced to prison in FY 2011. Of these 11, a percentage would have gone to prison under current law as an aggravated misdemeanor. Under the Bill, they will be sentenced as a Class D felon and will stay in prison longer compared to current law.

The prison population will increase because of the length of stay for a Class D felon sex offender (34.1 months) is 68.9% longer than an aggravated misdemeanor sex offender (10.6 months). The table below shows the correctional impact on the prison system. The population increases by more than the number of admissions because the average length of stay exceeds one year.

Projected Prison Population Increase

FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
11	33	49	57	62

On an annual basis, there will be 11 offenders whose average length of stay on probation will increase from 18.3 months to 31.6 months (72.7% Increase). All offenders sentenced under this Bill will remain in the correctional system for a longer period compared to current law.

Minority Impact

The minority impact is expected to be minimal because the majority of offenders convicted under Iowa Code Section 710.10 are white non-Hispanic males.

Fiscal Impact

The fiscal impact is estimated to be a \$38,500 cost to the General Fund in FY 2011. This estimate includes additional costs for the prison system (\$36,000) and the court system (\$2,500). The fiscal impact for FY 2012 is estimated to be a \$225,000 cost to the General Fund. This estimate includes additional costs for the prison system (\$220,000) and the court system (\$5,000).

The fiscal impact to the Community-Based Corrections (CBC) system is anticipated to be minimal for the first two years. Costs are expected to increase in future fiscal years due to increasing caseloads attributed to the increased length of stay for offenders on probation.

Fewer misdemeanants will serve time in county jails so there will be savings to county jail operations but the impact cannot be estimated due to a lack of data.

The above fiscal impact is expected to be the minimum impact of this Bill. There will be significant increases in State costs beyond the projections in this fiscal note, to the extent that federal Internet Crimes Against Children funding is available for State and local law enforcement, and State rather than federal charges are brought.

Sources

Judicial Branch
Department of Corrections
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of the State Public Defender
Department of Public Safety

/s/ Holly M. Lyons

February 22, 2010

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56](#), [Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
